

### REMARKS

In the Office Action dated November 13, 2003, claims 1-47 were rejected. Claims 1-47 are now pending in the application. In view of the remarks and amendments, Applicant respectfully requests reconsideration of the application.

Applicant has amended Claim 11 to show proper dependency on Claim 1.

Claim 40 was rejected under U.S.C. § 101 as being non-statutory subject matter. Claim 40 has been amended to more clearly claim the subject matter. Claim 40 includes utilizing "marked data" which is defined as indicating a time and wherein the marked data represents content that is broadcasted at the time. Accordingly, amended Claim 40 should be considered proper statutory subject matter.

Claims 1-47 were rejected under U.S.C. § 102(e) as being anticipated by Rhoads et al.

Applicant has amended Claims 1, 21, 33, 40, and 47 to include the limitation of:

wherein the marked data indicates a time and the  
marked data represents content that is broadcasted  
at the time

The Rhoads reference teaches embedding information about the content with the content. The information about the content includes title, artist name, and name of the distributor. (Rhoads, paragraphs 26-29)

Applicant believes that the Rhoads reference fails to teach the marked data that indicates a time. Further, Applicant believes that the Rhoads reference

fails to teach the marked data that represents content that is broadcasted at the time indicated by the marked data.

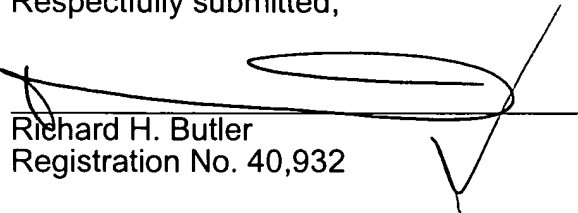
Therefore, the Rhoads reference does not anticipate Claims 1, 21, 33, 40 and 47. Thus, independent Claims 1, 21, 33, 40 and 47 are in condition for allowance. In addition, Claims 2-20 depend directly or indirectly on Claim 1 and therefore, are patentable for at least the same reasons discussed above. Claims 22-32 depend directly or indirectly on Claim 21 and therefore, are patentable for at least the same reasons discussed above. Claims 34-39 depend directly or indirectly on Claim 33 and therefore, are patentable for at least the same reasons discussed above. Claims 41-46 depend directly or indirectly on Claim 40 and therefore, are patentable for at least the same reasons discussed above.

In view of the foregoing remarks and amendments, Applicant respectfully submits that all pending claims are in condition for allowance. Such allowance is respectfully requested.

If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to contact Richard H. Butler at (408) 223-9763.

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Respectfully submitted,

  
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